

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Amendment of the Commission's Rules and	)	RM-11787
Policies to Improve the Translator Interference	)	
Complaint Process	)	

**REPLY COMMENTS OF  
THE NATIONAL ASSOCIATION OF BROADCASTERS**

**I. BACKGROUND AND SUMMARY**

Pursuant to Section 1.405(b) of the Commission's rules,<sup>1</sup> the National Association of Broadcasters (NAB)<sup>2</sup> hereby replies to comments on our Petition for Rulemaking in the above-captioned proceeding.<sup>3</sup> In the Petition, we noted that translators are an increasingly important part of radio broadcasters' service, as their use has expanded beyond providing service in areas where direct reception of an FM signal is insufficient. Translators now also rebroadcast AM radio service and HD Radio multicast program services.<sup>4</sup> The number of translators thus has grown, along with the risk of interference problems between translators and full-power FM stations. Although most translator licensees carefully engineer their operations, interference to FM service is always a possibility once a new or modified translator is turned on, and interference also may result when an FM stations launches new or modified service.<sup>5</sup>

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<sup>1</sup> 47 C.F.R. § 1.405(b).

<sup>2</sup> NAB is a nonprofit trade association that advocates on behalf of free local radio and television stations and broadcast networks before Congress, the Federal Communications Commission and other federal agencies, and the courts.

<sup>3</sup> Petition for Rulemaking, National Association of Broadcasters, RM-11787 (Apr. 20, 2017) (Petition).

<sup>4</sup> *Id.* at 1-2.

<sup>5</sup> *Id.* at 3.

As a secondary service, translator licensees are responsible for resolving interference; however, the Commission's rules can limit the options for doing so, sometimes forcing a translator licensee to use remedies that reduce or even turn off service. To help lessen these obstacles, NAB proposed that translators be provided more flexibility to change frequency to any available channel on the FM dial, to avoid interference.<sup>6</sup> Also, the Commission's process for resolving interference complaints against translators can sometimes be cumbersome, and delayed by disputes over the validity of interference claims, procrastination by the parties, or the limits of Commission resources. NAB proposed certain procedural changes designed to improve the Commission's disposition of interference complaints.<sup>7</sup>

The record overwhelmingly supports NAB's request for a rulemaking. However, given the Petition's balanced approach, many commenters propose changes consistent with their own perspectives, as do commenters on the related Aztec Petition.<sup>8</sup> In general, some parties seek to bolster the certainty of translators, while others urge the Commission to reinforce the primary status of full-power stations. NAB submits that the Petition offers an efficient approach to the issue, and that the record justifies further consideration. Accordingly, we respectfully request that the Commission initiate a rulemaking proceeding to address these questions.

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<sup>6</sup> *Id.* at 4-7.

<sup>7</sup> *Id.* at 9-13.

<sup>8</sup> Petition for Rulemaking, Aztec Capital Partners, Inc., RM-11786 (Apr. 7, 2017) (Aztec Petition).

## II. DISCUSSION

As a preliminary matter, no parties object to NAB's proposed change to Section 74.1233 of the rules,<sup>9</sup> which currently allows translators to move only to a first, second or third adjacent, or IF-related channel, as a minor change. The record supports removing these limits, so that a translator could move to any available channel on the FM dial to resolve interference, as a minor change, and so long as other allocation requirements are met.<sup>10</sup> This will provide translator licensees more flexibility to cure interference in a cost-effective manner,<sup>11</sup> and help to resolve a substantial number of interference issues.<sup>12</sup>

The more controversial questions surround the relative status and treatment of translators versus full-power FM stations under NAB's proposals to improve the translator interference resolution process. We proposed that an actionable interference complaint should be supported by complaints from at least six different listeners to the desired FM station, or more or less depending on the specific circumstances, such as the whether the area is rural or urban.<sup>13</sup> Such complaints should be verifiable statements from unaffiliated, regular listeners to the desired FM station, and interference must be shown from a variety of locations.<sup>14</sup> We also suggested reasonable practices and deadlines for the Commission's disposition of complaints.<sup>15</sup>

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<sup>9</sup> 47 C.F.R. § 74.1233.

<sup>10</sup> Petition at 5-6.

<sup>11</sup> See, e.g., Comments of Sam Brown, RMs-11786 and 11787 (May 26, 2017), at 2; Comments of the National Translator Association (NTA), RM-11787 (May 26, 2017), at 2; Joint Comments of Alpha Media, LLC, Beasley Media Group, LLC, et. al, RM-11787 (May 30, 2017), at 1-2.

<sup>12</sup> Comments of Wilkins Parent Corp. and its Affiliates, RM-11787 (May 30, 2017), at 2-3.

<sup>13</sup> Petition at 9-10.

<sup>14</sup> *Id.* at 10-12.

<sup>15</sup> *Id.* at 13-14.

NAB's balanced approach invited proposed changes from both sides of the matter. Some parties emphasize that translators provide valuable local or diverse niche programming, and believe translator service should be prioritized over that of a distant FM station.<sup>16</sup> For example, some argue that translator service to a significant audience within an AM station's market is more valuable than FM service to fewer listeners outside a full-power station's core service area, and support policies that would shield translators from listener complaints located outside some boundary of the desired FM station.<sup>17</sup> For the same reasons, some commenters suggest that NAB's proposed number of six listener complaints is too low to justify an actionable interference complaint from an FM station,<sup>18</sup> or that translators should be immune from complaints after some period of interference-free operations.<sup>19</sup>

On the other hand, the records also demonstrate strong support for clarifying and cementing the primary status of full-power stations compared to secondary translators. These commenters argue that raising the bar for complaints against translators will unfairly elevate the status of translators, leading to more congestion on the already interference-laden FM band. These parties fear the "AM-ization" of the FM band, reduced sound quality,

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<sup>16</sup> See, e.g., Comments of Miller Media Group, RM-11786 (April 27, 2017), at 1-2; Comments of Radio Power, Inc., RM-11786 and RM-11787 (May 18, 2017), at 1-2; Comments of Ronald E. Castro, RM-11786 (May 12, 2017), at 1-2.

<sup>17</sup> See, e.g., Wilkins Comments at 2 (actionable complaints should come from listeners within an FM station's 60 dBu contour or 20 miles, whichever is greater); Comments of Thomas H. Moffit, Jr., RM-11786 (May 18, 2017), at 3 (same); Comments of Broadcast Learning Center, Inc., RM-11786 (May 2, 2017), at 2 (FM stations should not be allowed to complain about translator interference beyond the station's "protected service contour").

<sup>18</sup> Radio Power Comments at 3 (complaints needed from at least one percent of the FM's stations cumulative audience); Comments of Apple 107.1, Inc., RM-11786 (May 18, 2017), at 2 (at least 15 complaints for markets with over 50,000 population); Comments of Emerald Wave, RM-11786 (May 10, 2017) (at least 10 listener complaints).

<sup>19</sup> Miller Comments at 2.

and harm to listeners and the financial viability of FM stations.<sup>20</sup> Some argue that, instead of trying to lift their status, translator licensees should be more cognizant of the nature and risks of a secondary service before purchasing or modifying a translator,<sup>21</sup> and better engineer their facilities to comply with the Commission's rules protecting primary service.<sup>22</sup> These parties also explain that FM programming from full-power stations is no less local or valuable than from (closer) translator stations, and that established, long-term listeners who live or work outside a full-power station's protected contour area can still rely on service from that station.<sup>23</sup> For example, Pueblo states that "over half of our loyal listeners reside outside the confines of our official FCC 60-dBu protected contour."<sup>24</sup>

As an association of broadcasters with strong views on all sides of this issue, NAB undertook a neutral approach to crafting the Petition. We recognize that broadcasters may vary in the value they place on FM translators, depending on their circumstances, and so we worked diligently to forge consensus proposals that recognize the many competing uses of spectrum. For example, the record wholly supports our suggestion that translators be allowed to move anywhere on the FM dial to cure interference, as a minor change.

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<sup>20</sup> Joint Comments at 4; Comments of AntennaWave Consulting, RM-11786 (May 17, 2017), at 2.

<sup>21</sup> WJFD-FM Comments at 2.

<sup>22</sup> Comments of Jerry R. Chapman, Woof Boom Radio, RM-11786 (May 17, 2017), at 1-2.

<sup>23</sup> Comments of WJFD-FM, Inc., RM-11786 (May 17, 2017), at 2-3; Comments of Clear Communications, Inc., RM-11786 (May 17, 2017), at 4-5; Comments of Media-Com, Inc., RM-11786 (May 2017), at 2 (commenters who would bar interference complaints from listeners outside an FM station's protected contour ignore "the reality of urban and suburban growth over the last 30 or 40 years.").

<sup>24</sup> Comments of Pueblo Broadcasting Group, LLC, RM-11786 (May 17, 2017), at 2. Other commenters explain that using any specific contour-based approach to determining the validity of listener complaints is impractical because prediction models only approximate coverage areas, while actual real-world conditions allow for distant access of radio stations. Comments of SSR Communications, Inc., RM-11786 (May 18, 2017), at 2.

We also believe that our proposed number of six listener complaints to justify an actionable complaint is reasonable, especially because the Petition specifically caveats that figure on the circumstances, such as whether the service area is urban or rural. Providing this subjective flexibility should address the concerns of commenters who propose a population-based or other approach that could require a higher number of listener complaints. Overall, we believe that the Petition offers a common sense, balanced approach. If nothing else, the spirited debate of the issues in comments on this Petition and the Aztec Petition demonstrate the challenges to improving the translator interference process in an equitable manner, and support further consideration of these issues in a rulemaking proceeding.

### **III. CONCLUSION**

For the reasons described above, NAB respectfully requests that the Commission initiate a rulemaking proceeding to consider NAB's Petition for Rulemaking to consider ways to improve the translator interference complaint process.

Respectfully submitted,

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